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April 11, 2006

VIA EFILING

The Hon. Kent A. Jordan
USDC for the District of Delaware
844 King Street
Wilmington, DE 19801

**RE: In Re: '318 Patent Infringement Litigation,
C.A. No. 05-356 (KAJ) (consolidated)**

Your Honor:

My firm, along with Rakoczy Molino Mazzochi Siwik LLP, represent Defendants Mylan Pharmaceuticals Inc. and Mylan Laboratories Inc. (collectively, "Mylan"), in the captioned consolidated litigation. On behalf of Mylan, we write in accordance with Section 4(f) of the Revised Scheduling Order (D.I. 81) and Your Honor's Civil Trial Procedures in response to Plaintiffs' letter of March 31, 2006, raising certain purported discovery disputes in connection with the multiple Rule 30(b)(6) deposition notices served by Plaintiffs to Defendants to date.¹ A telephone conference with the Court is scheduled for Wednesday, April 12, 2006, at 2:00 p.m. EDT to discuss this matter.²

Current Deposition Status

For purposes of efficiency, Mylan hereby adopts and incorporates herein the arguments set forth in the letter dated April 10, 2006, submitted by Defendant Teva in response to Plaintiffs' motion to compel, responding in particular to Plaintiffs' assertion that defendants are

¹ Although Mylan had intended to file this response yesterday, in order to avoid duplicative argument it opted instead to join in some of the arguments presented in Teva's letter, which was filed today.

² As an initial matter, Plaintiffs suggest that Defendants "initially refused" to hold a meet and confer on these issues and indicate that it "took Plaintiffs over a week to secure a teleconference to attempt to resolve this dispute." (Plaintiffs' 3/31/06 Ltr. at 3 & n.5). Plaintiffs conveniently ignore that Defendants offered to hold such teleconference on March 21 or 22, but Plaintiffs failed to respond to that offer. (See 3/17/06 Brody Ltr., Ex. A hereto). Thus, Plaintiffs' attempt to attribute blame to Defendants for any purported delay or bad faith in meet and confer efforts is unjustified.

The Hon. Kent A. Jordan
April 11, 2006
Page 2

unwilling and have refused to offer Rule 30(b)(6) witnesses in response to the Rule 30(b)(6) deposition notices served by Plaintiffs.

Moreover, with respect to Mylan, such assertion is baseless where Mylan identified its first Rule 30(b)(6) witness well in advance of Plaintiffs' motion to the Court on any purported issues concerning depositions. (*See* 3/22/06 Brody Ltr., Ex. B hereto). Mylan has since identified a Rule 30(b)(6) witness on other outstanding deposition topics and offered to present such witness on April 28, 2006, the earliest date on which the witness is available for this purpose in light of pre-existing business and professional obligations. (*See* 4/7/06 Brody Ltr., Ex. C hereto). Plaintiffs' further attempt to manufacture a dispute concerning the location of the Rule 30(b)(6) deposition that occurred on April 6, 2006 (Plaintiffs' 3/31/06 Ltr. at 2), is not only moot, but is without merit. In fact, on March 31 (prior to receiving Plaintiffs' letter to the Court), Mylan agreed to present such witness at Plaintiffs' offices in Washington, D.C. These circumstances alone demonstrate that Plaintiffs' motion here is an unfettered attempt by Plaintiffs to manufacture disputes concerning the scheduling of depositions while Defendants are in the midst of presenting their witnesses for deposition and/or taking depositions of third-party witnesses—issues on which the parties really should be focused at this time.

Unrelated Products


The arguments set forth in the April 10, 2006 letter submitted by Defendant Teva concerning "Unrelated Products" equally apply to Mylan, and as such, Mylan adopts and incorporates those arguments herein.

Contention Discovery

The arguments set forth in the April 10, 2006 letter by Defendant Teva concerning "Contention Discovery" equally apply to Mylan, and as such, Mylan adopts and incorporates those arguments herein.

Defendant Mylan respectfully requests that the Court deny Plaintiffs' request for relief. We look forward to speaking with Your Honor regarding these matters on April 12. Thank you for your consideration.

Respectfully,



Mary B. Matterer

Attachments

cc: Attached Service List (via email)

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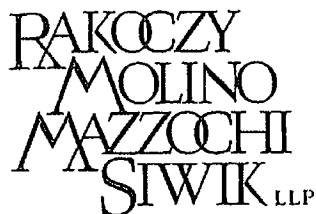
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EXHIBIT A



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March 17, 2006

VIA Facsimile and E-mail

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1201 Pennsylvania Avenue, NW
Washington, D.C. 20004-2401

Re: In Re: '318 Patent Infringement Litigation
C.A. No. 05-356 (KAJ) (D. Del.) (consolidated)

Dear Kurt:

This responds to your March 15, 2006 letter.

As an initial matter, we are not available to meet today concerning the Rule 30(b)(6) notices served by Plaintiffs as you demanded. In fact, we are tiring of your repeated unilateral imposition of deadlines without any regard for the convenience of the parties or counsel—not to mention common courtesy. That said, however, we are available on either Tuesday or Wednesday (March 21 or 22) of next week if either of those dates also works for you. In light of the similar positions of all Defendants in connection with Plaintiffs' Rule 30(b)(6) notices, we believe that it would be most efficient, as already suggested by other Defendants, to hold a joint teleconference on all outstanding deposition matters. Please advise of Plaintiffs' availability on either of these dates. At that time, Mylan also will plan to hold its meet and confer with Plaintiffs concerning other outstanding discovery issues, including those raised in Mylan's letters, dated March 7, and March 16, 2006, which you have completely ignored.

Moreover, you suggest that Plaintiffs have not "received the formal objections you promised to provide." In fact, Mylan served its formal responses and objections to Plaintiffs' multiple Rule 30(b)(6) Notices of Deposition to Plaintiffs by hand, overnight mail, and e-mail on Monday, March 13, 2006. If for any reason Plaintiffs did not receive any copy of these responses (which we highly doubt), please let us know immediately.

Kurt G. Calia, Esq.
COVINGTON & BURLING
March 17, 2006
Page 2

In your letter, you further advise that Plaintiffs are withdrawing certain deposition Topics "[i]n light of the Court's March 3 Order." This Order, as Plaintiffs know, dismissed Plaintiff's *willful infringement* claim. Nevertheless, the only deposition Topics Plaintiffs have agreed to withdraw relate solely to *non-infringement/infringement* issues. But Plaintiffs should not have issued these Topics in the first instance; nor should Mylan have been put through the time and expense of objecting to them. As you well know, in the Stipulation Not to Contest Infringement previously filed with the Court, Plaintiffs expressly agreed that they "will not seek discovery from Defendants relating solely to the issue of infringement of the '318 patent." Thus, Plaintiffs' failure, and apparent refusal, to withdraw or, at minimum, to reduce the scope of Topics beyond those relating to infringement is particularly inexcusable and must be remedied prior to commencing Mylan's Rule 30(b)(6) deposition. In addition, Plaintiffs have failed to withdraw Topics concerning products that fall outside the scope of Mylan's ANDA No. 77-590 for galantamine hydrobromide tablets, despite their agreement to do so. Plaintiffs expressly agreed to limit discovery only to that which relates "to the specific products that are the subject of Janssen's New Drug Application . . . 21-169 and the defendants' Abbreviated New Drug Applications" (3/10/06 Letter from K. Calia at 1). For at least these reasons, Plaintiffs have failed to properly re-issue its Rule 30(b)(6) notices as requested by Mylan. We request that Plaintiffs do so immediately. Only then will Mylan be in a position to properly designate a Rule 30(b)(6) witness or witnesses.

Mylan addresses in more detail below those additional Topics it believes Plaintiffs should withdraw or further limit.

Notice of Deposition, with noticed deposition date of March 15, 2006:

Plaintiffs have agreed to limit only Topic 1 under this Notice to the extent that this Topic relates to non-infringement. This position is unreasonable in light of the current status of this litigation, particularly where the Court has dismissed Plaintiffs' willful infringement claim. In light of that particular ruling, Plaintiffs have no basis to proceed with a deposition on Topics 2-4, 7, and 9-14, all of which relate to willfulness. These topics have no possible bearing on the only remaining issue in this case, namely, the validity of claims 1 and 4 of the '318 patent. Mylan should not be burdened with presenting witnesses on Topics that either the Court has already dismissed or that have no relevance to any claim or defense pending in this litigation. Please withdraw these Topics immediately, or explain why Plaintiffs refuse to do so.

Kurt G. Calia, Esq.
COVINGTON & BURLING
March 17, 2006
Page 3

Topic 8 is simply absurd on its face. Plaintiffs are well aware of the "factual basis" for the indication for which Mylan is seeking approval in its ANDA from Mylan's proposed labeling produced to Plaintiffs before this litigation even began. Plaintiffs do not require, and Mylan should not be burdened with producing, a Rule 30(b)(6) witness on this absurd Topic. This Topic also is irrelevant to the validity of the '318 patent. If it relates to anything, it is infringement only, which Plaintiffs have agreed not to pursue. Please withdraw this Topic immediately.

Plaintiffs also should withdraw Topics 3 and 11-14 based on Plaintiffs' agreement to limit discovery to the ANDA in suit, as set forth in Kurt Calia's March 10 letter. These Topics, and in particular Topic 13, relate to drug products outside the scope of Mylan's ANDA product.

Lastly, Topics 15-16, seeking testimony regarding invalidity contentions, clearly are premature at this stage. They also seek information that is better suited to an interrogatory. To that end, Mylan intends to supplement its interrogatories accordingly. We further note that Plaintiffs have done absolutely nothing in the way of contentions regarding claim construction, validity or purported secondary considerations. Indeed, Plaintiffs have not even produced any documents on these issues.

Notice of Deposition, with noticed deposition date of March 16, 2006:

Moreover, under the Notice with the noticed deposition date of March 16, Plaintiffs should withdraw Topics 3, 6 and 7 to the extent that these Topics seek any purported testimony relating to drug products outside the scope of Mylan's ANDA product. Plaintiffs also should limit Topics 8, 9 and 11 accordingly.

Notice of Deposition, with noticed deposition date of March 17, 2006:

While Plaintiffs have agreed to withdraw Topics 3-5 and 6-7 (to the extent that these Topics relate to Topics 3-5) under this Notice, Topics 1 and 2 also are irrelevant to the narrowed issues pending in this litigation to the extent that they relate to infringement or willful infringement, and should be withdrawn on those grounds alone. To the extent that there is anything left over on these Topics, it is privileged. Accordingly, please withdraw these Topics immediately.

* * *

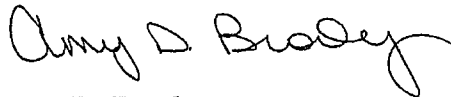
Mylan, of course, reserves its rights to object to any of the current Rule 30(b)(6) deposition Topics on any of the other grounds set forth in Mylan's

Kurt G. Calia, Esq.
COVINGTON & BURLING
March 17, 2006
Page 4

responses and objections to these deposition notices, served to Plaintiffs on March 13, 2006. We look forward to discussing these issues with you next week.

Very truly yours,

RAKOCZY MOLINO MAZZOCHI SIWIK LLP

A handwritten signature in cursive script, reading "Amy D. Brody". The signature is written in dark ink and is positioned above the printed name.

Amy D. Brody

cc: Attached service list

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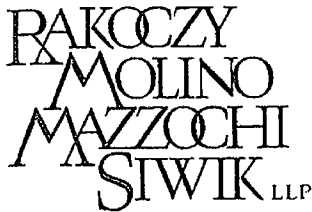
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March 22, 2006

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Re: In Re: '318 Patent Infringement Litigation
C.A. No. 05-356 (KAJ) (D. Del.) (consolidated)

Dear Kurt:

Pursuant to our conversation this afternoon, we confirm that Mylan intends to designate Jason Harper in connection with Topics 4 and 5 to the Notice of Deposition Under Fed. R. Civ. P. 30(b)(6) served by Plaintiffs to Mylan, with the noticed deposition date of March 15, 2006. As advised, Mr. Harper is available on Thursday, April 6, 2006, for such deposition. As further indicated, Mr. Harper is located in Morgantown, West Virginia, and we request that Plaintiffs depose Mr. Harper in Morgantown. As for the remaining deposition topics on which Mylan intends to designate a witness or witnesses, we are still endeavoring to obtain additional proposed deposition dates, and will advise accordingly.

Please confirm that this date is convenient for Plaintiffs as soon as possible. We look forward to hearing from you.

Very truly yours,

RAKOCZY MOLINO MAZZOCHI SIWIK LLP

Amy D. Brody

cc: Attached service list

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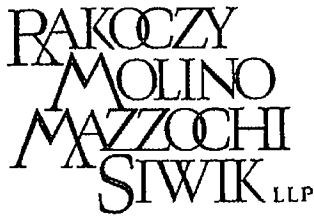
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EXHIBIT C



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April 7, 2006

VIA Facsimile and E-mail

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**Re: *In Re: '318 Patent Infringement Litigation*
*C.A. No. 05-356 (KAJ) (D. Del.) (consolidated)***

Dear Kurt:

We advise that Mylan intends to designate Brian Roman in connection with the following deposition topics as noticed by Plaintiffs, subject to all objections asserted by Mylan to date and to the agreement of Plaintiffs to withdraw certain topics:

Deposition Notice with noticed deposition date of March 15, 2006:

Topics 1-4
Topics 7-10
Topic 13
Topic 15-16
Topic 18

Mr. Roman also will testify as to Topics 17 and 19 solely to the extent that they relate to Topics 1-4, 7-10, 13, 15-16 and 18.

Deposition Notice with noticed deposition date of March 16, 2006:

Topics 1-11

Deposition Notice with noticed deposition date of March 17, 2006:

Topics 1-2

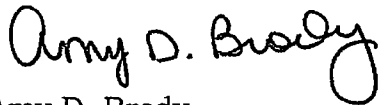
Kurt G. Calia, Esq.
COVINGTON & BURLING
April 7, 2006
Page 2

Mr. Roman also will testify as to Topics 6 and 7 solely to the extent that they relate to Topics 1-2.

Mr. Roman is available for his deposition as a Rule 30(b)(6) witness on April 28, 2006, in New York. Please advise at your earliest convenience if Plaintiffs are available on that date to proceed with this deposition.

Very truly yours,

RAKOCZY MOLINO MAZZOCHI SIWIK LLP

A handwritten signature in black ink, reading "Amy D. Brody". The signature is written in a cursive, flowing style with a large, prominent "A" and "B".

Amy D. Brody

cc: Attached service list

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